

ENTERED

March 11, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA

VS.

LUIS AGUILAR

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CRIMINAL ACTION NO. 7:16-CR-804-2

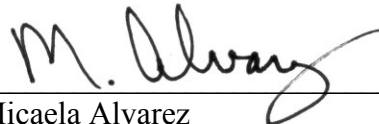
ORDER

Pending before the Court is a Motion for Order Directing Discharged Counsel to Return Defendant's Files¹ and a Response² thereto. In such motion, Luis Aguilar ("Aguilar") requests an order from this Court directing his former attorney to provide to him the files of his case. Aguilar indicates he seeks the files to assist him in filing a 28 U.S.C. § 2255 petition. To date, no 28 U.S.C. § 2255 petition has been filed. His former counsel, Patricia A. Rigney, responds that she twice mailed copies of various documents to Aguilar, but that the second package was returned. Ms. Rigney further indicates she is willing to provide another set of documents upon being provided with a proper address for Aguilar.

Despite Ms. Rigney's willingness to provide Aguilar with a copy of certain documents, the Court finds there is no need to order counsel to do so. Although Aguilar may be contemplating filing a § 2255 petition, the time for doing so has long since elapsed. Aguilar's judgment became final on October 14, 2018, ninety days after the Fifth Circuit's mandate was issued.³ Thus, the one-year statute of limitations ran on October 15, 2019. Should Aguilar believe he has grounds for pursuing § 2255 petition beyond the one-year time limit, the Court can then consider any discover request made by Aguilar.⁴ On the record as it now stands, the motion is **DENIED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 11th day of March, 2021.



Micaela Alvarez
United States District Judge

¹ Dkt. No. 560.

² Dkt. No. 561.

³ Dkt. No. 511.

⁴ See *United States v. Frye*, 385 Fed. Appx. 370, 371-72 (5th Cir. 2010) ("Frye's motion for return of his files is a motion to compel discovery that could be appropriately filed in his § 2255 proceeding . . .")